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Security Council Committee established pursuant to resolution 1267 (1999)

Letter dated 8 July 2003 from the Permanent Representative of Venezuela to the United Nations addressed to the Chairman of the Committee

I have the honour to write to you in your capacity as Chairman of the Security Council Committee established pursuant to resolution 1267 (1999), with reference to the previous report of the Government of the Bolivarian Republic of Venezuela submitted pursuant to paragraph 6 of Security Council resolution 1455 (2003), in its letter No. 584 of 23 June 2003 (S/AC.37/2003/(1455)/53).

I would like to request that the Committee consider that report to be a preliminary report, in the context of Venezuela's will and effort to meet its commitment to the international fight against terrorism. The present letter contains an updated report that reflects the Committee's detailed guidelines for the submission of said reports (see annex). I would therefore be grateful if the Committee you chair would consider the current document to be the report submitted by the Government of the Bolivarian Republic of Venezuela pursuant to paragraph 6 of resolution 1455 (2003), replacing the previous report. If the preliminary report has already been formally circulated, I would ask you to ensure that the current text is circulated as the report which in fact follows the guidelines established by the Committee.

I should also like to inform you that the present report consists of the following annexes:*

(a) Annex 1 — Report on the measures taken by the National Financial Intelligence Unit (UNIF) with regard to the terrorist organization of Osama bin Laden, the al-Qa'idah network and the Taliban;

(b) Annex 2 — Model from the Army Weapons Office (DARFA) to the Customs Service authorizing a company to import weapons;

(c) Annex 3 — Model import authorization issued by DARFA;

(d) Annex 4 — DARFA manual of standards and procedures.

(*Signed*) Milos **Alcalay**
Ambassador
Permanent Representative

* The enclosed documentation may be consulted in the Secretariat.

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Annex to the letter dated 8 July 2003 from the Permanent Representative of Venezuela to the United Nations addressed to the Chairman of the Committee

Report of the Bolivarian Republic of Venezuela submitted to the United Nations Counter-Terrorism Committee pursuant to Security Council resolution 1455 (2003)

I. Introduction

1. Please provide a description of activities, if any, by Osama bin Laden, al-Qa`idah, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.

To date there has been no evidence of any activities actually undertaken in Venezuela by Osama bin Laden, al-Qa`idah, the Taliban or their associates; however, that does not mean that such persons do not pose a threat to the country. Venezuela is not immune from such activities and the Government is therefore fully disposed to implement any resolutions in that regard by adopting the measures needed to prevent those individuals and entities from undertaking activities in Venezuelan territory. In the legislative sphere, the National Assembly is preparing an entire regulatory framework defining the specific crimes of terrorism and the financing of terrorism. In this connection, the draft law against organized crime and the draft law against terrorism are the principal instruments aimed at creating the legal framework for effectively fighting terrorism.

Terrorism by its very nature constitutes a contemporary global phenomenon with political, social and economic effects. At the strategic level it poses a worldwide threat to States and societies, which makes the region vulnerable to that threat, with the same likelihood of terrorist attacks and activities as in the United States of America or Europe.

II. Consolidated list

2. How has the 1267 Committee's list been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?

The list is distributed to all competent authorities with a view to keeping them informed of additions to it. All Security Council resolutions are also distributed so that the competent authorities may adopt the measures required for their implementation, in accordance with Venezuela's commitment as a member of the Organization.

3. Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the list? If so, please describe these problems.

No problems have been encountered with implementation with regard to the names and identifying information currently included in the list.

4. Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.

To date, the national authorities have not identified any individual or entity included in the list.

5. Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Osama bin Laden or members of the Taliban or al-Qa`idah that have not been included in the list, unless to do so would compromise investigations or enforcement actions.

No individuals or entities associated with Osama bin Laden or the Taliban have been discovered.

6. Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the list? Please specify and elaborate, as appropriate.

This situation has not arisen.

7. Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the list? If so, please provide this information to the Committee as well as similar information on listed entities, as available.

Currently, none of the individuals included in the list is a national or resident of our country.

8. According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting al-Qa`idah members in carrying out activities inside your country, and to prevent individuals from participating in al-Qa`idah training camps established in your territory or in another country.

To date there has been no case in the country of recruitment of individuals by members of the al-Qa`idah terrorist network.

III. Financial and Economic Assets Freeze

9. Please describe briefly:

– the domestic legal basis to implement the asset freeze required by the resolutions above;

Article 116 of the current Constitution establishes that the confiscation of assets shall not be ordered or carried out except in cases permitted under the Constitution. Assets belonging to natural or legal persons, either nationals or foreigners, guilty of crimes committed against public property, the assets of persons who enrich themselves illegally through the use of public office and assets derived from commercial, financial or any other activities linked to illicit trafficking in narcotic drugs and psychotropic substances may be confiscated only on an exceptional basis and pursuant to a definitive court order.

Article 66 of the Organic Law on Narcotic Drugs and Psychotropic Substances provides that movable and immovable property, assets, vehicles, ships or aircraft, apparatus, equipment, instruments and other articles which may have been used in

the commission of the crimes described in that Law, including the "legitimization of capital", the term used in our legislation to describe money-laundering, shall in all cases be confiscated and pursuant to the final juridical decision in that regard, shall be handed over to the Ministry of Finance, which shall dispose of them.

In addition, Article 235 of the Statutory Decree constituting the General Act on Banks and Other Financial Institutions provides that one of the roles of the Office of the Superintendent of Banks and Other Financial Institutions is to require that the competent authorities, in accordance with the relevant constitutional and legal provisions, institute preventive measures for the freezing of an account, investment or financial transaction of any kind.[1]

– any impediments under your domestic law in this context and steps taken to address them.

The necessary measures are being adopted to remedy impediments under our domestic law, for example rapid approval of the draft law against organized crime and the draft law against terrorism.

10. Please describe any structures or mechanisms in place within your Government to identify and investigate Osama bin Laden, al-Qa'idah or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.

The juridical basis for the powers and functioning of the National Financial Intelligence Unit (UNIF) is contained in Article 213 of the Organic Law on Narcotic Drugs and Psychotropic Substances and Article 226 of the General Act on Banks and Other Financial Institutions. The Unit functions as a central clearing house; it requests, receives, and analyses information from the entire Venezuelan financial system relating to the crime of money-laundering and the financing of terrorism and forwards that information to the competent authorities.

The UNIF database is made up of periodic or other reports which must be submitted by the bodies concerned. Reports must be submitted electronically within 15 days following the end of the month, and include the following information:

- Deposits or withdrawals from current or savings accounts, liquid asset funds or other products of 4.5 million bolívares or more;
- Purchase or sale of amounts of US$ 10,000 or more or the equivalent in other currencies;
- Transfers of US$ 10,000 or more or the equivalent in other currencies from or to a point outside the Bolivarian Republic of Venezuela;
- Transfers of US$ 3,000 or more or the equivalent in other currencies made from or to territories or regions which are not cooperating with regard to money-laundering and banking secrecy;

[1] See annex, Report on the measures taken by the National Financial Intelligence Unit, with regard to the Osama bin Laden terrorist organization, the al-Qa'idah network and the Taliban, page 1.

- Transfers of US$ 750 or more or the equivalent in other currencies made to or from drug-producing regions or territories located in the Americas;
- Electronic transfers of US$ 2,000 or more or the equivalent in other currencies;
- Sales of electronic money in foreign currencies using "electronic cash cards", whatever the amount involved.[2]

11. Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Osama bin Laden or members of al-Qa'idah or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.

Under the "due diligence and good faith" requirement, banks and other financial institutions must not only comply with the norms, procedures, internal mechanisms and prevention and control policies established in Venezuelan legislation for the prevention and control of money-laundering and the financing of terrorism but also show that they have implemented them in practice.

In this connection, they must design and develop an Integral System of Prevention and Control that includes appropriate, sufficient and effective measures to prevent financial operations from being used as instruments to conceal the origin, purpose or object, or illegal use of assets, whether through disposition, transfer, currency conversion or investment, including the purchase and sale of securities, or any use of cash or other assets deriving from criminal activities, or to give the appearance of legality to transactions and funds associated with them. The entities concerned shall use this same system to detect suspicious operations related to the financing of terrorism.[3]

12. Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2000) and 1390 (2002). Please include, to the extent possible, in each listing the following information:

- **identification(s) of the person or entities whose assets have been frozen;**

No assets have been frozen thus far, since no one on the list has been detected. The National Financial Intelligence Unit has not uncovered financial assets (tangible or intangible assets) associated with the individuals included in the list.

- **a description of the nature of the assets frozen (i.e., bank deposits, securities, business assets, precious commodities, works of art, real estate property and other assets);**

No assets have been frozen thus far, since no one on the list has been detected.

- **the value of assets frozen.**

[2] See annex, Report of the National Financial Intelligence Unit, page 3.

[3] See annex, Report of the National Financing Intelligence Unit, page 7.

13. Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Osama bin Laden or members of the al-Qa`idah or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.

This situation has not arisen in our country.

14. Pursuant to resolutions 1455 (2003), 1390 (2002), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to Listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:

- **The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of al-Qa`idah or the Taliban. This section should include an indication of the types of institutions informed and the methods used;**

UNIF maintains, and has maintained, a proactive and diligent attitude towards preventing the use of the national banking system as a means for laundering money deriving from unlawful activities of any kind and financing terrorism, in accordance with the provisions of Venezuelan laws and regulations and international agreements.

In this connection, UNIF has promoted training programmes, including forums, seminars and conferences, on preventing money-laundering and the financing of terrorism for banks and other financial institutions.

Additionally, through the Department of Prevention and Control, special inspections have been conducted to evaluate the internal controls and technological resources of the entities concerned. Circulars have been issued to the entire Venezuelan financial system to apprise it of the new guidelines on the Prevention of Money Laundering and the Financing of Terrorism.[4]

- **Required bank-reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated;**

Through their officer or employee in charge of the prevention of money-laundering, banks and other financial institutions should submit a Suspicious Transaction Report electronically, using form PMSBIF0044/0497, to the National Financial Intelligence Unit, on any transaction effected by a customer which might be unusual, out of the ordinary, complex, in transit or structured, and which, after investigation, is presumed to involve funds derived from an illegal activity, or to have been effected, or attempted, in order to conceal or dissimulate funds or assets derived from activities which are illegal or for which there is no reasonable justification. In addition to the above-mentioned operations, they should include

[4] See annex, UNIF report, page 11.

those that might be linked to the actions of organized criminal groups or structured groups, as defined in the Law Adopting the United Nations Convention against Transnational Organized Crime.[5]

- **Requirements, if any, placed on financial institutions other than banks to provide STR, and how such reports are reviewed and evaluated;**

Under Article 214 of the Organic Law on Narcotic Drugs and Psychotropic Substances, entities subject to the General Law on Insurance and Reinsurance and the Law on Capital Markets are required to cooperate with the national executive branch in the control and inspection of cash or other assets presumably deriving, directly or indirectly, from the crimes referred to in that Law, or from activities associated with them.

Under the above-mentioned Law, the Office of the Superintendent of Banking and Other Financial Institutions adopted decision No. 99-2-2-2820 of 7 December 1999, published in Official Gazette No. 5.4321 of 7 January 2000, concerning "Norms relating to the Prevention, Control and Inspection of Insurance and Reinsurance Operations with a View to Preventing Money Laundering". As for the capital market, resolution No. 510-97 of 12 December 1997 concerning "Norms on the Prevention, Control and Inspection of Money Laundering Operations applicable to the Venezuelan Capital Market" was adopted and published in Official Gazette No. 36.411.[6]

- **Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items;**

Under Article 218 of the Organic Law on Narcotic Drugs and Psychotropic Substances, the national executive branch, through the Ministry of Finance, is empowered to monitor, control and supervise trade in precious metals, collectors' items, precious stones, jewels, objets d'art and other similar valuable items, in particular the purchase and sale of gold and its export and the income derived from such operations.

The Ministry of Finance shall also inform the National Financial Intelligence Unit whenever there is a suspected link between operations related to trading in the above-mentioned valuable items and the crimes specified in the Law on Narcotic Drugs and Psychotropic Substances.

- **Restrictions or regulations, if any, applicable to alternate remittance systems, such as — or similar to — "hawala" as well as on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.**

In Venezuela, all financial intermediation, fund-raising and money transfers or remittances can be effected only by those financial institutions subject to the General Act on Banks and Other Financial Institutions.

Alternate remittance systems, such as "hawala" or other systems, are not authorized.[7]

[5] See annex, UNIF report, page 12.
[6] See annex, UNIF report, page 14.
[7] See annex, UNIF report, page 16.

IV. Travel ban

15. Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.

With regard to the measures taken to prevent the entry into or transit through Venezuelan territory by individuals included in the list referred to in paragraph 2 of resolution 1390 (2002), it should be stressed that, in the wake of 11 September 2001, Venezuela intensified control measures in order to prevent individuals identified by international intelligence agencies as being suspected of, responsible for or accomplices to terrorist activities from entering the country. Thus, pursuant to resolution 1390 (2002), the relevant measures have been taken in that regard; information on individuals and assets is being processed and reciprocal cooperation in the area of intelligence is being maintained with various countries. Security systems at ports, airports and border crossing points have also been strengthened.

Thus, a network for coordinating all State security bodies has been created in order to safeguard border areas and the national territory and there is an ongoing exchange of information between these bodies and other police organizations at the international level through the Division of the International Police (International Criminal Police Organization (Interpol)) with a view to verifying the identity of all persons under investigation for whatever reason.

At the national level, border controls have been reinforced at all international ports and airports, including more careful inspection of the documentation of all foreign nationals wishing to enter or leave the country.

16. Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.

In order to prevent terrorist acts in Venezuela, there are a number of actions and measures that the authorities take to identify suspicious persons. The National Division for Identification and Immigration, through the Office of Migration and Border Areas, is constantly verifying the possible presence of or transit through Venezuelan territory of known members of such terrorist organizations as ETA in Spain, Middle Eastern fundamentalists and the al-Qa'idah network. It also facilitates access by national and international investigators to immigration information contained in the database of the Immigration Office concerning foreigners who are being monitored or investigated for various crimes (including terrorism) in order to determine their point of entry, location and activities in Venezuela and/or their departure from its territory.

Measures have been taken to deny entry to or expel foreigners involved in certain acts, including the following:

- Past or current trafficking in narcotics, drugs, hallucinogens or any similar substance.
- Extradition from the country.
- Appearing in the specialized registries of Interpol.
- Participation, whether direct or indirect, trafficking in persons or human organs.

- Entry into the country with false documents or without meeting all the legal requirements.
- Involvement in acts which, in the opinion of the immigration authorities, make the foreigner a potential danger to national security or peace.
- For reasons of security and public order, it is necessary to obtain a permit from the authorities to enter certain areas of Venezuelan territory.
- All means of international transport arriving in or departing from Venezuelan territory are subject to control by the immigration authorities, who review the documents of the crew and passengers they transport.
- Likewise, hotels, hostels, residences and, in general, any place which houses foreigners keep a registry of foreigners with their full names, nationality, identity document number and place of origin and destination.
- The intelligence services of Venezuela maintain communication and regularly exchange information on subversive activities and organized crime in any of its forms. This has contributed to the arrest of persons sought by Interpol, the Federal Bureau of Investigations (FBI), the Drug Enforcement Administration (DEA) and United States Bureau of Alcohol, Tobacco and Firearms (ATF).
- Venezuela signed an agreement on the exchange of police information with the United States, which remains in effect.
- Immigration controls have been tightened, in a coordinated effort carried out by all security bodies in the border towns and airport zones.
- Venezuela has the lists of citizens sought for terrorism at the international level, which are being processed by the Office of Immigration and Border Areas and State security bodies.

17. How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points?

The list is transmitted to the competent authorities each time the responsible body receives it from the United Nations. It is also transmitted by electronic means to all the entry points in the country.

18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.

This situation has not arisen.

19. Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your Consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the List?

This situation has not arisen.

V. Arms Embargo

20. What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by

Osama bin Laden, members of al-Qa`idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?

The current legal system contains two instruments governing this subject: the Weapons and Explosives Act and the Disarmament Act. It is important to point out that, in accordance with article 324 of the Constitution of the Bolivarian Republic of Venezuela, the national army is the competent institution which regulates and monitors the manufacture, import, export, storage, transit, registration, control, inspection, trade in, possession and use of weapons, ammunition and explosives. Thus, the Weapons and Explosives Act along with the Disarmament Act, published in Official Gazette No. 37.059 dated 20 August 2002, stipulate that the national army is the competent institution to regulate and control seizure of illegal firearms; to this effect it is recommended that the Protocol in question should be directed to the Ministry of Defence so that it may make any necessary observations.

21. What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Osama bin Laden, members of al-Qa`idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them?

No such legislation exists.

22. Please describe how your arms/arms broker licensing system, if any, can prevent Osama bin Laden, members of al-Qa`idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.

Through an exchange of information among the competent authorities it would be possible to identify any request involving suspicious persons.

23. Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Osama bin Laden, members of al-Qa`idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them?

First it must be noted that the current Constitution establishes, in its article 324, "only the State may possess and use weapons of war. Any such weapons that are present in, manufactured in or brought into the country shall become the property of the Republic without compensation or recourse. The national army will be the competent institution to regulate and control, in accordance with the relevant law, the manufacture, import, export, storage, transit, registration, control, inspection, trade in, possession and use of other weapons, ammunition and explosives."

Therefore, in accordance with the information supplied by the Army Weapons Office (DARFA), the following arms control measures have been adopted:

1. Import licences are granted to companies registered with DARFA and who meet the required standards.

2. The following documentation shall be required in support of the registration of the company with DARFA and shall be verified:

- Registration card for the DARFA Registry,
- Photocopy of the incorporation documents and company bylaws,
- Copy of the Tax Information Registry (RIF-NIT),
- Companies with foreign stockholders shall attach a copy of the company certification issued by the office of the Superintendent of Foreign Investments (SIEX),
- Copy of the identity card, passport or other documentation of stockholders, members of the board of directors and legal representatives of the company,
- Companies that have been incorporated for less than one year must attach their opening balance sheet, accompanied by the corresponding audit report signed by an independent certified public accountant,
- Statements of enrolment in obligatory social security, National Institute of Educational Training, payment of industrial and commercial permits,
- Copy of the permit to operate issued by the fire department,
- Copy of the company's fire, theft and general liability insurance policy,
- Copy of the ownership documents or rental agreement for the building,
- Resolution on operations from the Ministry of the Interior and Justice (only surveillance companies),
- Form 16, payment of registration taxes (tax stamps),
- Technical inspection of the premises where the company operates,
- Current status of operations.

Measures to control chemicals and explosives

- Companies are inspected by professional military chemicals and explosives technicians,
- Monitoring by means of a record of entry and exit of chemicals, explosives and related materials,
- Review of the files kept in the archives of the explosives division for issuing permits for transit and use (local purchase),
- Once the requested permit has been obtained, the company must send legible photocopies to DARFA on a monthly basis reporting on the consumption as entered in the registries accompanied by copies of the invoices for purchase, sale and shipping orders for its own use,
- Review of the files for granting import permits and the relevant current inspection,
- In order for the respective permits to be granted, the company must pay off with SENIAT the equivalent of 60 Tax Units,
- On inspection of the vehicles which transport chemicals and explosives in the national territory, a circulation permit valid for one year is issued, which is monitored by this Office.

Attached is a model of a communication sent to Customs informing them of authorization to import, an Import Licence and a Manual of Standards and Procedures, Nos. 3, 4 and 5 respectively.

VI. Assistance and conclusion

24. Would your State be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.

Yes.

25. Please identify areas, if any, of any incomplete implementation of the Taliban/al-Qa`idah sanctions regime, and where you believe specific assistance or capacity-building would improve your ability to implement the above sanctions regime.

This does not apply to our country.

26. Please include any additional information you believe pertinent.

The following documents are attached as annexes:

Annex No. 1: Report on the measures taken by the National Financial Intelligence Unit with regard to the terrorist organizations of Osama bin Laden, the al-Qa`idah network and the Taliban.

Annex No. 2: Model letter from DARFA to the Customs Service authorizing a company to import weapons.

Annex No. 3: Model of import authorization issued by DARFA.

Annex No. 4: DARFA Manual of Standards and Procedures.